

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOHN DOE,

Plaintiff,

-against-

ABC COMPANY LLP, ET AL.,

Defendants.

Case No. 14 Civ. 6867 (VEC)

**DECLARATION OF  
BRUCE BERNSTEIN**

**\*SUBMITTED UNDER SEAL\***

I, BRUCE BERNSTEIN, declare under penalty of perjury that the foregoing is true and correct:

1. I am the Plaintiff in the above-captioned lawsuit. I submit this declaration in support of the parties' joint application for an administrative order closing this case without unsealing the record.

**The July 24 Sealing Order**

2. On July 24, 2014, my counsel sent a letter to the Honorable P. Kevin Castel – the designated Part I judge – requesting permission to file this case under seal.

3. By obtaining a sealing order prior to initiating this action, I was hopeful that, before this case became public, we could ask the Court to render an expedited ruling as to whether the information underlying my claims constituted confidential client information and whether any ethical rules precluded me from prosecuting this lawsuit.

4. If the Court determined that I was permitted under the ethical rules to pursue my claims, I intended to do so regardless of whether the case remained sealed.

5. If the Court determined that the information was confidential and that I was precluded from pursuing my claims, I understood that I would have the option of discontinuing

this action before the case was unsealed. This would allow me to avoid the risk that the defendant law firm or its client would sue me for violating my professional or fiduciary duties.

6. On July 24, 2014, Judge Castel granted my application and ordered the action sealed. Judge Castel further ordered that the sealing order would expire 14 days after service of the Complaint unless extended by the assigned judge (the “Sealing Order”).

#### **Communications with the Records Management Clerk**

7. On August 15, 2014, prior to filing the Complaint, I visited the Records Management Unit at 500 Pearl Street, Room 270 for the purpose of confirming that the case would remain sealed if I discontinued this action before the Sealing Order expired.

8. The Records Management clerk informed me that the Complaint and Sealing Order would be kept in a sealed envelope in a vault. The clerk explained that these documents would remain sealed permanently if the action were discontinued prior to the expiration of the Sealing Order. After conferring with another clerk, who appeared to be in a supervisory position, the two clerks confirmed the above explanation.

9. On August 22, 2014, in reliance on the answers I received from the Records Management clerks, I directed my lawyers to file the Complaint under seal.

#### **The Settlement Agreement**

10. On September 4, 2014, prior to submitting any request for a ruling on the confidentiality issue, the parties reached a final agreement to settle this action (the “Settlement Agreement”).

11. The Settlement Agreement includes a provision that voids the settlement if this action is unsealed or otherwise becomes public.

12. I am satisfied with the terms of the Settlement Agreement as they will allow my family to move forward in peace while maintaining our personal privacy.

### **Employment Prospects**

13. Since my departure from the law firm defendant in October 2012, I have searched extensively for legal employment without success.

14. I continue to search for legal employment.

15. I am concerned that if this matter is unsealed it may be even more difficult for me to find employment as a lawyer in light of the hotly disputed issues between the parties. That is a significant risk that is avoided if the settlement that the parties have agreed on is allowed to proceed and is not unwound.

### **Conclusion**

16. In the event this case is unsealed, I will likely be forced to litigate a case that I agreed to resolve, incur significant associated costs, and my family will lose the peace, privacy and finality achieved through the matter's resolution. Unsealing the case will make it even more difficult to find legal employment.

17. The resolution of this matter, which will remain in place only if the record remains sealed, in accordance with what I was advised are the customary practices of the Records Management Division, will allow me to renew my legal career. Even more importantly, I believe that it will provide my family with an opportunity to start a new, hopeful and promising chapter as we put this matter behind us and move forward in life.

18. For these reasons, I respectfully request that Court grant the parties' joint request to close this case without unsealing the file.

Dated: September 19, 2014



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Bruce Bernstein